

DEC - 1 1986

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

BARBARA A. EVERLY, CLERK

IN THE MATTER OF:

IN ADVERSARY PROCEEDING NO.:

VINTON FARM CENTER, INC.,

FILED

84-0118C

Debtor.

SMALL BUSINESS ADMINISTRATION,

NOV 21 1986

Plaintiff,

CLERK, U.S.
BANKRUPTCY COURT
CASE NO. _____

v.

ORDER

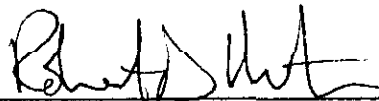
ALLIS-CHALMERS CREDIT CORPORATION,
and R. FRED DUMBAUGH, Trustee,

and
JUDGMENT

Defendants.

IT IS HEREBY ORDERED that the plaintiff Small Business Administration may have judgment against the defendant Allis-Chalmers Credit Corporation in the amount of \$25,866.83.

Dated November 21, 1986


ROBERT D. MARTIN
U. S. BANKRUPTCY JUDGE
JUDGE SITTING BY DESIGNATION

Copy mailed to:
Liquidation Attorneys - SBA,
Plaintiff;
Thomas Peffer,
Atty for Defendant Allis Chalmers;
R. Fred Dumbaugh,
Trustee/Defendant;

RECORDED: Volume II
Page 7

this December 1, 1986
Louise S. Wartman
Deputy Clerk, Bankruptcy Court
P O Box 4371, Cedar Rapids, IA 52407

*See attached
modification
filed April 21, 1987,
revised April 24,
1987.*

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

IN THE MATTER OF:

IN ADVERSARY PROCEEDING NO.:

VINTON FARM CENTER, INC.,

Debtor.

SMALL BUSINESS ADMINISTRATION,

Plaintiff,

v.

ALLIS-CHALMERS CREDIT CORPORATION,
and R. FRED DUMBAUGH, Trustee,

Defendants.

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CLERK, U.S.
BANKRUPTCY COURT
CASE NO.

84-0118C

FILED
U.S. BANKRUPTCY CO
NORTHERN DISTRICT OF

DEC - 1 1986

BARBARA A. EVERLY, CLERK

MEMORANDUM DECISION

This matter is before the court for decision on agreed facts.
Upon the entire record in this proceeding I make the following:

FINDINGS OF FACT

1. The Small Business Administration ("SBA"), as the assignee of Vinton State Bank, has a security interest in debtor's inventory which was perfected on February 9, 1973. After liquidating all other collateral securing its loan, the SBA is still owed \$130,359.50 by the debtor.

2. Allis-Chalmers Credit Corporation ("A-C") has perfected a purchase money security interest in the debtor's parts inventory by a financing statement filed May 7, 1979. The security agreement, dated May 2, 1979, provided that the security interest was granted to secure all of debtor's present and future debts. The notification letter, dated May 15, 1979, stated that A-C intended to acquire a purchase money security interest in all inventory manufactured or offered by sale by A-C.

3. A-C has a perfected purchase money security interest in certain items of debtor's used inventory.

4. A-C was owed \$106,534.75 on the items of used inventory which were sold by the trustee on December 23, 1983. A-C received \$65,412.05 from the trustee's sale of used inventory leaving A-C with a debit balance of \$41,122.70 for used inventory items.

5. As of the end of December 1983, A-C was owed \$21,235.66 for parts inventory. On January 3rd and 4th, 1984, the trustee returned some parts for which the debtor's parts inventory account was credited for \$47,102.49 which apparently left a credit balance of \$25,866.83.

6. Sometime in March 1984, A-C applied the credit balance in the debtor's parts inventory account against the debit balance on the debtor's used inventory account. After the two accounts were offset and "various other entries" were made, A-C claimed \$9,522.90 was due from the debtor.

CONCLUSIONS OF LAW

1. It is not clear from the fact stipulation if all the used inventory came from trade-ins toward the purchase of new equipment or whether some used inventory was purchased directly by the debtor. Used inventory which came from trade-ins would be proceeds of new equipment

sales and thus subject to A-C's security agreement. However, to the extent that used inventory was purchased directly, it is not covered by the description of the collateral¹ in the security agreement.

2. A purchase money security interest ("PMSI") covers only the price of the collateral financed in a given transaction. Iowa Code Ann. §554.9107. It does not and cannot cover other obligations. The statement in the security agreement to the effect that other obligations are covered is wholly ineffective. There is, in fact, a circuit court case which holds that the attempt of the lender to secure more than the price of the collateral being financed on that occasion destroys the purchase money character of the security interest altogether.² In the

¹The Debtor's inventory of new machinery manufactured or sold by Secured Party, attachments, accessories and replacement parts therefor now owned or hereafter acquired by the Debtor from the Secured Party, plus all proceeds derived therefrom. The collateral is more specifically described in Debtor's purchase orders, invoices, and periodic inventories signed by both parties. For the purpose of identification, such purchase orders, invoices and inventories, as and when executed, are by reference made a part hereof.

²In re Manuel, 507 F.2d 990, 993 (5th Cir. 1975) (the interest created is not a PMSI if it exceeds the price of the collateral financed in that transaction). Cf. Pristas v. Landaus of Plymouth, Inc., 742 F.2d 797, 801 (3rd Cir. 1984) (a PMSI in a quantity of goods can remain such to the extent it secures the price of that item, even though it may also secure the payment of other articles).

absence of a direction in the Eighth Circuit, A-C will be deemed to have engaged in an innocent overreaching and the PMSI will be recognized to the extent the statute permits. A-C will be treated as having its purchase money security interest in those items of inventory for which it did in fact provide the purchase money.

3. No agreement between the parties which provided for how payments by the debtor were to be applied to the various inventory accounts was placed in evidence. From the fact stipulation, it is clear that A-C kept separate accounts for the two types of inventory and that payments were applied only to the account which represented the specific type of inventory which was sold or returned by the debtor. By A-C's admission, the balance of the parties' parts inventory account was reduced below zero when goods worth \$25,866.83 more than the outstanding loan balance for parts purchased were returned by the trustee. The reduction of that balance to zero extinguished A-C's PMSI in the parts inventory. A-C had no other claim to the returned parts proceeds which was entitled to a purchase money super priority. Thus SBA, the creditor entitled to priority but for the PMSI super priority, may recover the excess proceeds from A-C.

Dated November 21, 1986.



ROBERT D. MARTIN
U. S. BANKRUPTCY JUDGE

JUDGE SITTING BY DESIGNATION

Copy to:
Atty for Plaintiff;
Atty for Allis Chalmers;
R. Fred Dumbaugh,
Trustee/Defendant;
this December 1, 1986

copies sent 11/21/86 to:

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Cedar Rapids, IA 52406

R. Fred Dumbaugh
Dumbaugh, Booth, Chapman and McGraw
attorney for trustee
Ninth Floor, The Center
Cedar Rapids, IA 52401

United States District Court

NORTHERN

DISTRICT OF

IOWA

SMALL BUSINESS ADMINISTRATION,
Plaintiff,

V.

ALLIS-CHALMERS CREDIT CORP.,
et al.,
Defendants.

JUDGMENT IN A CIVIL CASE

CASE NUMBER: C 86-174 & C 86-175

☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

☒ **Decision by Court.** This action came to ^{decision} ~~trial or hearing~~ before the Court. The issues have been ^{decided} ~~tried or heard~~ and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

Allis-Chalmers Credit Corporation's appeal from order filed December 9, 1986 is denied.

Small Business Administration's cross-appeal from order filed December 19, 1986 is granted.

The November 21, 1986 order of the bankruptcy court is modified to require payment of interest on the principal amount of the judgment of \$25,866.83 at rate of ten percent (10%) per annum, commencing on January 13, 1984.

FILED
CEDAR RAPIDS HDQTRS OFFICE
NORTHERN DISTRICT OF IOWA

APR 21 1987
2:58 pm
WILLIAM J. KANAK - Clerk
Deputy Smith
DEPUTY

April 21, 1987

Date

WILLIAM J. KANAK

Clerk

RECORDED: Volume II, Page 7
Judgment Record Book in the
Office of Clerk of Bankruptcy Court,
this April 24, 1987 LW

Cheryl Scott
(By) ~~Deputy Clerk~~ Chief Deputy Clerk

Bkey

040887EB
FILED
CEDAR RAPIDS HDQTRS OFFICE
NORTHERN DISTRICT OF IOWA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION

APR 21 1987

2:58 pm

WILLIAM J. KANAK - Clerk
By: R. J. Smith DEPUTY

IN RE:)
)
VINTON FARM CENTER, INC.,)
)
Debtor,)
-----)
)
SMALL BUSINESS ADMINISTRATION,)
)
Plaintiff,)
)
vs.)
)
ALLIS-CHALMERS CREDIT)
CORPORATION, and)
R. FRED DUMBAUGH,)
)
Defendants.)

NO. C 86-0174
NO. C 86-0175
(Bankruptcy No. 83-00296)
(Bankruptcy No. 84-0118C)

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

APR 21 1987

ORDER MODIFYING BARBARA A. EVERLY, CLERK
BANKRUPTCY COURT'S DECISION

This matter is before the court on Allis-Chalmers Credit Corporation's (AC) appeal (case number C 86-0174) and the Small Business Administration's (SBA) cross-appeal (case number C 86-0175) from a decision of the bankruptcy court¹ entered November 21, 1986, ordering judgment in favor of SBA and against AC in the amount of \$25,866.83. AC urges this court to reverse the decision of the bankruptcy court. SBA urges this court to modify the judgment of the bankruptcy court to provide for interest on its judgment. Both sides have filed briefs outlining

¹The Honorable Robert D. Martin, United States Bankruptcy Judge, sitting by designation.

their arguments. The court finds that no oral argument on either the appeal or cross-appeal is necessary, and enters the following order.

The court has carefully reviewed the record on appeal and has also studied the briefs submitted on appeal. The court finds no errors in the bankruptcy judge's findings of fact or conclusions of law, but since the court's review of the record reveals an error of omission, the court modifies the bankruptcy court's order as follows.

On July 19, 1984, Judge William Thinnes entered an order in this case which reads in part:

In the event that the Small Business Administration prevails in Adversary No. 84-0118C, and in the further event that the Court enters judgment against Allis-Chalmers Credit Corporation in said action, then in that event, said judgment shall include interest on the principal amount of the judgment from an [sic] after the date upon which Allis-Chalmers Credit Corporation took position [sic] of the subject spare parts at the rate of 10% per anum [sic].

It is undisputed and clear from the record that the Small Business Administration prevailed in Adversary No. 84-0118C, and that judgment was entered against Allis-Chalmers Credit Corporation in that adversary proceeding. Therefore, under Judge Thinnes' ruling, the judgment which was entered against Allis-Chalmers in the adversary proceeding should have provided for interest on the principal amount of the judgment at a rate of 10% per annum from the date on which Allis-Chalmers took possession

of the parts in issue. The parties have stipulated that Allis-Chalmers took possession of the parts in issue on January 3 and 13, 1984. SBA requests that the interest payments be calculated from the latter date, January 13, 1984.

ORDER:

Accordingly, It Is Ordered:

1. Allis-Chalmers Credit Corporation's appeal from the order of the bankruptcy court, filed December 9, 1986, (No. C 86-0174) is denied.

2. The Small Business Administration's cross-appeal from the order of the bankruptcy court, filed December 19, 1986, (No. C 86-0175) is granted.

3. The order of the bankruptcy court entered November 21, 1986 is modified to require the payment of interest on the principal amount of the judgment of \$25,866.83 at the rate of ten percent (10%) per annum, commencing on January 13, 1984.

Done and Ordered this 21 day of April, 1987.



David R. Hansen, Judge
UNITED STATES DISTRICT COURT

Clerk To Furnish Copies To:

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Cedar Rapids, Iowa 52406

U.S. Bankruptcy Court - hand delivered

Copies mailed certified, return receipt requested on Apr. 21, 1987 w/Judgment
to parties listed above

Ratay Smith Deputy Clerk